

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

v.

92-cr-126-bbc

DEWAYNE CROMPTON,

Defendant.

In an order entered on July 22, 2009, I denied defendant DeWayne Crompton's motion pursuant to 18 U.S.C. § 3582 and Amendment 706 and 711 to the Sentencing Guidelines. Now defendant has filed a notice of appeal. He has not paid the \$455 fee for filing his notice of appeal, which is required if he is to take an appeal from the denial of a § 3582 motion. Therefore, I construe defendant's notice as including a request for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915.

As I explained in the July 22, 2009 order, defendant is not eligible for a sentence reduction under § 3582 because his sentence was determined by his status as a career offender and not by drug quantity. Because defendant wants to raise a legally frivolous argument on appeal, I must certify that his appeal is not taken in good faith.

Pursuant to Fed. R. App. P. 24, defendant has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied by an affidavit as described in the first paragraph of Fed. R. App. P. 24(a) and a copy of this order.

ORDER

IT IS ORDERED that defendant DeWayne Crompton's request for leave to proceed in forma pauperis on appeal from this court orders of July 22, 2009 is DENIED. I certify that defendant's appeal is not taken in good faith.

Entered this 24th day of August, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge